

**ASSEMBLY BILL**

**No. 1404**

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**Introduced by Assembly Members De Leon and V. Manuel Perez**

February 27, 2009

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An act to add Sections 38572 and 38573 to the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1404, as introduced, De Leon. California Global Warming Solutions Act of 2006: offsets.

The California Global Warming Solutions Act of 2006 designates the State Air Resources Board as the state agency charged with monitoring and regulating sources of emissions of greenhouse gases. The state board is required to adopt a statewide greenhouse gas emissions limit equivalent to the statewide greenhouse gas emissions level in 1990 to be achieved by 2020, and to adopt rules and regulations in an open public process to achieve the maximum technologically feasible and cost-effective greenhouse gas emission reductions. The state board is authorized to adopt market-based compliance mechanisms, as defined, meeting specified requirements to be used for compliance with those regulations. The state board is required, before including any market-based compliance mechanism, to maximize additional environmental and economic benefits for California, as appropriate.

This bill would require the state board, if the state board allows the use of market-based compliance mechanisms, to create an independent entity to be regulated by the state board to independently verify a greenhouse gas emission offset to ensure the emission reduction claim is real, permanent, and additional. Both providers and users of offsets

would be required to pay a fee to this entity, in amounts to be determined by the state board, to pay for the costs of the verification.

The bill would require an offset used for compliance to be similarly as effective in reducing emissions of pollutants in addition to greenhouse gases as would a direct emission reduction measure by the user of that offset. The bill would also require an offset to be located in the same air pollution control district or air quality management district in which the user of the offset emits greenhouse gas emissions that makes them subject to emission reduction requirements pursuant to this act, or if an offset cannot be found that meets this requirement, an offset in California in an environmentally disadvantaged community would be required to be purchased, if an offset can be found that meets this requirement. In addition, a source would be prohibited from using more than 10% emission offsets to meet the greenhouse gas emission reductions required during a compliance period created by the state board.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 38572 is added to the Health and Safety
- 2 Code, to read:
- 3 38572. (a) If the state board allows the use of market-based
- 4 compliance mechanisms pursuant to Section 38570, the state board
- 5 shall create an independent entity to be regulated by the state board
- 6 to independently verify a greenhouse gas emission offset to ensure
- 7 the emission reduction claim is real, permanent, and additional,
- 8 including the creation of an auditing system to ensure the
- 9 permanency of an offset.
- 10 (b) Any individual or entity may sell an offset if the offset meets
- 11 criteria to be developed by the state board, and the offset has been
- 12 verified pursuant to subdivision (a).
- 13 (c) Both providers and users of offsets shall pay a fee, in
- 14 amounts to be determined by the state board, to the entity created
- 15 pursuant to subdivision (a) to pay for the costs of the verification.
- 16 The fee shall be set in a manner to ensure that an offset user pays
- 17 increased fees as the user purchases more offsets to meet the
- 18 emission reduction requirements established by the state board.
- 19 All fees shall be deposited pursuant to Section 38597.

1 SEC. 2. Section 38573 is added to the Health and Safety Code,  
2 to read:

3 38573. If the state board allows the use of market-based  
4 compliance mechanisms pursuant to Section 38570, offsets may  
5 be used to meet the requirements of this act only as follows:

6 (a) An offset shall be similarly as effective in reducing emissions  
7 of pollutants in addition to greenhouse gases as would a direct  
8 emission reduction measure by the user of that offset.

9 (b) (1) An offset may only be used for compliance, if the  
10 emission reduction or sequestration project that generated the offset  
11 is located in the same air pollution control district or air quality  
12 management district in which the user of the offset emits  
13 greenhouse gas emissions that makes them subject to emission  
14 reduction requirements pursuant to this act.

15 (2) If an offset cannot be found that meets the requirement of  
16 paragraph (1), an offset shall be purchased where the emission  
17 reduction or sequestration project that generated the offset is  
18 located in California in an environmentally disadvantaged  
19 community.

20 (3) If the state board verifies that an offset cannot be found that  
21 meets the requirements of paragraphs (1) and (2), an offset  
22 consistent with subdivision (a) may be used for compliance.

23 (c) A source shall not be allowed to use more than 10 percent  
24 emission offsets to meet the greenhouse gas emission reductions  
25 required during a compliance period created by the state board.